

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No.: 1:12-CV-00437

DAVID C. HENDERSON, individually)
and on behalf of others similarly situated,)
)
Plaintiff,)
vs.)
)
REMINGTON ARMS COMPANY, LLC.,)
CASCADE CARTRIDGE, INC. A/K/A CCI)
AMMUNITION)
)
)
Defendants.)
_____)

**MOTION FOR EXTENSION OF TIME
TO FILE CLASS CERTIFICATION**
[M.D.N.C LR 23.1]

NOW COMES Plaintiff, by and through the undersigned counsel, pursuant to Rule 23.1 of the Local Rules of the United States District Court for the Middle District of North Carolina (hereafter “LR”) and hereby moves the Court for an Order for extension of time to file a motion for class certification. In support of this Motion, Plaintiff respectfully shows unto the Court in pertinent part the following:

1. The Complaint was filed in this matter was filed in the United States District Court for the Northern District of Texas, Dallas Division on January 31, 2012.
2. On April 9, 2012, Defendant Remington filed a motion to dismiss pursuant to Rule 12(b)(6) of the Rules of Civil Procedure, along with a supporting Memorandum.
3. On April 9, 2012, Defendant Remington also filed a Motion to Transfer this matter to the United States District Court for the Middle District of North Carolina (“MDNC”), along with a supporting Memorandum.
4. On May 1, 2012, the Parties entered a Joint Stipulation to Transfer this matter to the MDNC.

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5. On May 2, 2012, the Court entered an Order transferring this matter to the MDNC.

6. To date, the Parties have not held a Rule 26(f) conference.

7. To date, no Rule 26 initial disclosures have been exchanged by the Parties.

8. To date, no discovery has been served between the parties.

9. Pursuant to LR 6.1(a) Plaintiff has consulted with Defendants' counsel concerning this motion for extension of time.

10. Defendants do not consent to this Motion for extension of time to file a motion for class certification.

11. The Parties and the Court will not be prejudiced by the granting of this Motion for Extension of Time.

12. In contrast, if this Motion is not granted, Plaintiff and the putative class will be prejudiced as discovery regarding the class certification issues will not be possible.

13. Plaintiff desires to have the additional time pursuant to this Motion to conduct basic discovery related to the class certification issues. To date, Plaintiff has had no opportunity to seek any discovery related to the class certification or any other issue.

14. Plaintiff should be allowed to conduct limited discovery on class-related issues before being required to move for class certification under Rule 23.

15. Additionally, contemporaneous with the agreement to transfer this case to the MDNC, Plaintiff's counsel and Defense counsel had previously agreed to consolidate this case with other pending matters before this Court Yancey v. Remington Arms Co., Inc., 1:12-cv-00477 and Maxwell v. Remington Arms Co., Inc., 1:10-CV-00918-UA-LPA and to file an amended complaint in the newly consolidated action.

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16. Defense counsel now indicates it agrees to consolidate the matters and may consent to the filing of a consolidated amended complaint.

17. Given the prior agreement of the Parties to move the Court to consolidate the three actions and the forthcoming motion to file an amended complaint in the consolidated action, substantial justice will be served by the granting of this motion.

18. Plaintiff respectfully requests that the Motion be granted to postpone the determination of class certification until a date certain at least thirty (30) days after class discovery is completed and any other necessary procedures have been undertaken by the Court and the Parties.

19. Further, as this Motion raises several issues that will impact briefing and scheduling, Plaintiff would respectfully request a joint status conference.

WHEREFORE, Plaintiff prays the Court as follows:

1. That the Court enter an Order postpone the determination of class certification until thirty (30) days after the completion of class discovery and any other necessary procedures have been undertaken by the Court;
2. That the Court set a joint status conference to address briefing and scheduling issues; and
3. For such other and further relief as to the Court seems just and proper.

Signature Page to Follow

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Respectfully submitted this the 7th day of June, 2012.

SHIPMAN & WRIGHT, L.L.P.

/s/ William G. Wright

WILLIAM G. WRIGHT

State Bar Number: 26891

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing **MOTION FOR EXTENSION OF TIME TO FILE CLASS CERTIFICATION** is being filed and served via the Court's official electronic filing site.

The undersigned is informed and believes that all parties entitled to Notice will receive this Notice of this filing via the Court's electronic distribution system pursuant to Rule 5 of the Federal Rules of Civil Procedure.

This the 7th day of June, 2012.

/s/ William G. Wright
William G. Wright

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